

2014 Judge Richard N. Ware, IV

**MEMORIAL HIGH SCHOOL
MOCK TRIAL COMPETITION**

CASE MATERIALS

43rd JUDICIAL DISTRICT COURT
STATE OF LOUISIANA
PARISH OF CREOLE

KERRY GAUTREAUX

versus

TERRY SWIFT AND GULFSIDE HIGH SCHOOL
Docket no: 2012-20135; Div. "L"

GAUTREAUX v. SWIFT AND GULFSIDE HIGH SCHOOL

Docket no: 2012-20135; Div. "L"

Jordan Gautreaux was a 17-year old senior at Gulfside High School who unexpectedly died of a heart attack on May 6, 2011. Jordan began running as a youngster and had real promise. Jordan joined Gulfside High School's track team as a freshman and quickly developed into a star sprinter. At the time of Jordan's death, Jordan was competing for a track scholarship to a Division 1 university.

The autopsy revealed that Jordan's bloodstream contained the steroid Erythropoietin (pronounced ah-rith-ro-poy-tin and abbreviated "EPO"). EPO is used medically to treat certain forms of anemia. Athletes use EPO to improve performance, because it increases the oxygen carrying capacity of blood. EPO also increases the blood viscosity which can cause the blood to sludge and clog capillaries, resulting in a heart attack.

Kerry Gautreaux, Jordan's surviving parent, has filed a wrongful death lawsuit against Gulfside High School and Terry Swift, Gulfside's track coach. Specifically, Kerry claims that Terry and the school's athletic department: (i) encouraged Jordan to use steroids; and (ii) should have known that Jordan was using steroids and taken steps to stop Jordan's steroid use.

Terry and Gulfside deny Kerry's claims and contend that: (i) Jordan is solely at fault for causing his/her own death for taking a dangerous substance without a prescription and while not under a doctor's care; and (ii) Kerry was comparatively negligent in not (a) looking out for Jordan's safety and well-being, (b) discovering that Jordan was using steroids, and (c) taking steps to stop Jordan's steroid use.

This is a bifurcated trial on the issue of LIABILITY ONLY - *damages are not at issue*. For purposes of the 2014 Mock Trial Problem if one defendant is liable, both are liable; vicarious liability is not at issue and should not be raised.

WITNESSES:

The plaintiff, Kerry Gauteaux, will call the following witnesses:

1. Kerry Gautreaux - Jordan's surviving parent
2. Morgan Pierce - another student on the track team and Jordan's close friend
3. Lynn Roper, Ph.D. – offered as an expert on the effects of steroid abuse and the use of steroids by young athletes

The defendants, Terry Swift and Gulfside High School, will call the following witnesses:

1. Terry Swift - Gulfside's track coach
2. Jamie Knight, Ed.D. - Gulfside's assistant principal and athletic director
3. Aubrey Brady - a consultant to coaches and athletic departments

EXHIBITS:

The exhibits which may be used at trial are marked as follows:

Exhibit 1	LIA Position Statement Form 14.13
Exhibit 2	LIA Bylaws (Portion of Article 14)
Exhibit 3	Louisiana Child Fatality Autopsy Form
Exhibit 4	Toxicology Report
Exhibit 5	AHSA newsletter
Exhibit 6	AHSA newsletter
Exhibit 7	Coach's Tally
Exhibit 8	First Chicory Bank Withdrawal Slip, Acct. 1966-0802
Exhibit 9	Internet Printing Cover Sheet and Attached Article

Objections may be made to an exhibit's admissibility, *i.e.* whether the rules of authenticity, hearsay, etc., are satisfied (using only the Mock Trial Rules of Evidence found in the Handbook published with the Problem). Student-attorneys will be judged on their ability to make relevant objections and to argue their position. Student-attorneys will also be judged on their ability to articulate a response to the objection. However, all exhibits will be admitted into evidence following argument.

All witness affidavits were signed before trial. Each witness has reviewed his/her affidavit for accuracy, and no changes were made.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

43rd JUDICIAL DISTRICT COURT OF LOUISIANA

CREOLE PARISH

STATE OF LOUISIANA

KERRY GAUTREAUX

versus

TERRY SWIFT AND GULFSIDE HIGH SCHOOL

Docket no: 2012-20135; Div. "L"

PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel, comes and appears the plaintiff, Kerry Gautreaux, who respectfully represents as follows:

1.

Kerry Gautreaux is a person of the full age of majority and resides in Creole Parish, Louisiana.

2.

Made defendants herein are (1) Terry Swift ("Swift"), an unmarried individual and resident of Creole Parish, Louisiana who is employed by Gulfside High School as a track coach, and (2) Gulfside High School ("Gulfside"), a private high school with its principal place of business in Creole Parish, Louisiana.

3.

Jurisdiction and venue are proper in this Court because the events giving rise to this lawsuit occurred in Creole Parish and the parties reside there.

4.

The plaintiff is the surviving parent of Jordan Gautreaux ("Jordan"), who died unexpectedly of a heart attack on May 6, 2011.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5.

Jordan began competitive sprinting in grade school. Jordan enrolled at Gulfside High School for the 2007-2008 school year and joined the track team as a freshman. At the time of Jordan's death, Jordan was: (i) a 17-year old senior at Gulfside, and (ii) a star sprinter on Gulfside's track team.

6.

An autopsy and laboratory tests confirmed that Jordan's bloodstream contained extremely high levels of a steroid known as Erythropoietin ("EPO"). EPO is a steroid that is commonly used without a doctor's prescription and supervision by sprinters and other endurance athletes to improve their performance.

7.

The EPO in Jordan's system caused Jordan's fatal heart attack.

8.

Jordan never had a doctor's prescription for EPO.

9.

The defendants had a duty to: (i) monitor Jordan, a student athlete at Gulfside, for the use of illegal, performance-enhancing drugs; (ii) warn Jordan of the dangers and risks associated with the use of illegal, performance-enhancing drugs; (iii) discourage Jordan from using illegal, performance-enhancing drugs; (iv) protect Jordan from unreasonable risk of harm and injury; and (v) enforce all school rules and safety regulations.

10.

The defendants breached their duties to Jordan, by: (i) failing to monitor Jordan for the use of illegal, performance-enhancing drugs; (ii) failing to warn Jordan of the dangers and risks associated with the use of illegal, performance-enhancing drugs; (iii) expressly and/or implicitly encouraging Jordan to use illegal, performance-enhancing drugs; (iv) failing to protect Jordan from unreasonable risk of harm and injury; and (v) failing to enforce all school rules and safety regulations.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

11.

The defendants' breach of the duties owed to Jordan proximately caused Jordan's death.

12.

The plaintiff has suffered emotionally and physically as a result of Jordan's death and the defendants' breach of their duties.

WHEREFORE, the plaintiff prays for judgment against the defendants for:

- A. Damages in an amount to be proven at trial;
- B. An award of court costs; and
- C. Such other relief as the Court deems just and proper.

DATED: March 9, 2012

PARKER WALTERS, PLC.

By /s/ Sam Chavez
Sam Chavez
1024 WeWin Rd. Ste. 200
Hueyville, Louisiana 54264
Tele: (531) 555-8658
schavez@parkerwalters.com

Attorneys for the plaintiff, Kerry Gautreaux

PLEASE SERVE:

Terry Swift
1421 Rue Louis Dr.
Chicory, Louisiana 75777

Gulfside High School
5698 Memory Ln.
Chicory, Louisiana 75755

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

43rd JUDICIAL DISTRICT COURT OF LOUISIANA

CREOLE PARISH

STATE OF LOUISIANA

KERRY GAUTREAUX

versus

TERRY SWIFT AND GULFSIDE HIGH SCHOOL

Docket no: 2012-20135; Div. "L"

ANSWER AND AFFIRMATIVE DEFENSES

NOW INTO COURT, through undersigned counsel, come and appear the defendants, Terry Swift and Gulfside High School, who, upon information and belief, respond to the plaintiff's petition for damages as follows:

ANSWER

1.

The defendants are without sufficient information and knowledge to admit or deny the allegations in paragraph 1 of the petition for damages.

2.

The defendants admit the allegations in paragraph 2 of the petition for damages

3.

The defendants admit the allegations in paragraph 3 of the petition for damages.

4.

In response to the allegations in paragraph 4 of the petition for damages, the defendants admit that (i) plaintiff is the surviving parent of Jordan Gautreaux ("Jordan"), and (ii) Jordan died on May 6, 2011.

5.

In response to the allegations in paragraph 5 of the petition for damages, the defendants admit that (i) Jordan enrolled as a freshman at Gulfside High School in the 2007-2008 school year and

1 joined the track team as a freshman, and (ii) at the time of Jordan's death, Jordan was a 17-year
2 old senior and a sprinter on Gulfside's track team. The defendants are without sufficient
3 information and knowledge to admit or deny the remaining allegations.

4
5 6.

6 The defendants are without sufficient information and knowledge to admit or deny the
7 allegations in paragraphs 6, 7, and 8 of the petition for damages.

8 7.

8 The defendants deny the allegations in paragraphs 9, 10, and 11 of the petition for damages.

9 8.

10 The defendants are without sufficient information and knowledge to admit or deny the
11 allegations in paragraph 12 of the petition for damages.

12 9.

13 The defendants deny all allegations that have not been admitted expressly in this Answer.

14 **AFFIRMATIVE DEFENSES**

15 10.

16 The incident involved in this lawsuit was caused by the sole fault of Jordan Gautreaux for
17 taking a dangerous substance without a prescription and without a doctor's supervision. In the
18 alternative, should there be a determination of fault against the defendants, it is alleged that
19 Jordan Gautreaux's fault contributed to Jordan's death and that any damages awarded to the
20 plaintiff be reduced according to the Jordan Gautreaux's percentage of fault.

21 11.

22 The incident involved in this lawsuit was caused by the sole fault of the plaintiff, Kerry
23 Gautreaux, in failing to (a) look out for Jordan's safety and well-being (b) discover that Jordan
24 was using steroids, (c) take steps to stop Jordan's steroid use, (d) take every precaution against
25 the foreseeable risk that Jordan was using an illegal, performance-enhancing drug, and (e) use
26 reasonable care, caution, and foresight to protect Jordan from the foreseeable risk. In the
27
28

1 alternative, should there be a determination of fault against the defendants, it is alleged that the
2 plaintiff's fault contributed to Jordon Gautreaux's death and that any damages awarded to the
3 plaintiff be reduced according to plaintiff's percentage of fault.
4

5 12.

6 The defendants may learn of additional affirmative defenses during the course of discovery
7 and reserve the right to amend this Answer to assert such affirmative defenses.

8 WHEREFORE, the defendants pray for:

- 9 A. Judgment dismissing the plaintiff's claims with prejudice;
10 B. An award of their court costs; and
11 C. Such other relief as the Court deems just and proper.

12 DATED: April 5, 2012.

13 FOSTER & COLLINS, LLP

14
15 By /s/ Riley Cavanaugh
16 Riley Cavanaugh
17 2587 Main Highway
18 Catfish City, Louisiana 25465
19 Tele: (956) 555-8765
20 rcavanaugh@fclaw.com
21 Attorneys for the defendants, Terry Swift
22 and Gulfside High School

23 A copy of the foregoing pleading was mailed on April 5, 2012 to plaintiff's counsel of record:

24 Sam Chavez
25 1024 WeWin Rd. Ste. 200
26 Hueyville, Louisiana 54264

27 /s/ Riley Cavanaugh
28 COUNSEL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AFFIDAVIT OF KERRY GAUTREAUX

STATE OF LOUISIANA

PARISH OF CREOLE

Kerry Gautreaux, duly sworn, under oath, and based on personal knowledge, attests as follows:

1. I live in Chicory, Louisiana, and I am the 44-year-old only surviving parent of Jordan Gautreaux. Jordan is my only child and died on May 6, 2011.

2. My former spouse and Jordan’s other parent, Rory, died when Jordan was only 2 years old. I worked two, sometimes three, jobs to make sure that I could take care of Jordan. I wanted to make sure that Jordan had a good life. I probably wasn’t home enough, but I had to do what it took to get food on the table and to meet our needs.

3. Insurance from Rory’s death was set aside in a trust account for Jordan. I controlled the trust until Jordan was 16 years old. I never took money out of the trust. At times, I even worked 18 hours a day to make sure that we could get by without touching Jordan’s trust money. According to the terms of the trust, when Jordan turned 16 years old, Jordan could access the money and withdraw funds without my consent.

4. I knew, even when Jordan was little, that Jordan had serious running talent. Jordan ran a 2-mile race at only six years old and finished before a lot of adults. Jordan and I often ran together on the weekends and early in the morning – it was our time together. Jordan was a strong runner just like Rory and me.

5. By 6th grade, Jordan often beat me in sprints. Of course, I was not in great shape, but Jordan was really fast, particularly in the 100 meters.

6. By 8th grade, numerous high school track coaches were coming to see Jordan run. Terry Swift from Gulfside High School, one of the top track teams and coaches in the state, was at Jordan’s middle school for a meeting during one of Jordan’s track meets. Jordan was very excited about meeting Terry. But, I wish Jordan had never met Terry. If he hadn’t, I wouldn’t be walking past Jordan’s empty room every night. I blame Terry and Gulfside for Jordan taking steroids.

1 7. In middle school, Jordan set a lot school records. A few kids at other schools were faster,
2 but Jordan was committed to track.

3 8. Terry made quite an impression on Jordan. After meeting Terry, all Jordan talked about
4 was going to Gulfside, because it had one of the best track programs in the state. The problem
5 was that Gulfside is a fancy private school, and we couldn't pay the tuition without help. But,
6 Jordan's grades were not nearly good enough to qualify for an academic scholarship. It's not that
7 Jordan wasn't bright, but Jordan was more interested in running than studying. Fortunately, Terry
8 recommended Jordan for a scholarship. Although Terry never said it, all Jordan had to do was
9 stay on the track team and keep doing really well, and Jordan would get to stay at Gulfside.

10 9. I know I put a lot of pressure on Jordan. I wanted to make sure that Jordan stayed at
11 Gulfside. It was a good school – one we couldn't afford. I also wanted Jordan to have the life of
12 a track star that Rory and I didn't.

13 10. I remember when Jordan was 15, one day during our run, Jordan told me that Terry was
14 applying a lot of pressure for Jordan to take it to the next level. Jordan placed second in a meet,
15 and Terry was angry. Jordan told me that Terry said that college was on the line and so was next
16 year's tuition at Gulfside.

17 11. I told Jordan that Terry was right. I wanted Jordan to get into a good college. I wanted
18 to make sure that Jordan stayed at Gulfside. I remember telling Jordan about the extra training
19 we were going to do together. Instead, I got a promotion at one of my jobs and became manager
20 of the computer training division. So, I ended up working a lot more. I never got to do the extra
21 training with Jordan. In fact, I ended up putting much more responsibility on Jordan to manage
22 the house. Jordan had to shop for groceries, do all the laundry, run errands, and make dinner.
23 Jordan probably had less time to train after my promotion than before.

24 12. When Jordan was 16, more college recruiters started coming to the track meets and
25 practices. Jordan was getting more and more nervous.

26 13. Jordan asked me a few times if funds from the trust account were available. I said at 16
27 the funds were available. I never even thought to check the balance after Jordan turned 16.
28

1 14. In Jordan’s senior year, things were coming together – or so it seemed – from a track
2 standpoint. Jordan won every race. Jordan’s times were getting faster and faster. At home,
3 Jordan was more and more withdrawn. I figured it was just adolescence. Jordan never wanted to
4 go on morning or weekend runs with me and would say it was “unnecessary” because “there are
5 other types of training for great runners.” Jordan’s comments hurt my feelings, but I figured
6 Jordan was just angry about all of the responsibilities that the other kids didn’t have.

7 15. Jordan was sick a lot during senior year. Jordan often stayed home with cold and flu-like
8 symptoms. It seemed like Jordan caught almost every bug that was going around the school that
9 year. Jordan also got lots and lots of nosebleeds. I asked if we should go to the doctor, but I just
10 got an ice-cold stare and Jordan said, “It’s the price of success.” I had no idea what that meant.

11 16. I was also worried about Jordan’s acne. Jordan always had perfect skin, but all of a
12 sudden Jordan’s back was covered with acne. I figured it was hormonal. Plus, Jordan was already
13 angry all the time, so I didn’t want to bring up the issue.

14 17. In April 2011, I decided to buy Jordan a car as an early graduation gift. I had been
15 saving as much as I could. I thought about asking Jordan to pay for car insurance from the trust.
16 I decided to check the balance on the account and saw it was down from around \$50,000 to about
17 \$25,000. I blew my top. First, I called the bank and freaked out because I assumed that money
18 was fraudulently taken out of Jordan’s trust. Then, the bank e-mailed me the records showing
19 Jordan’s withdrawals. I couldn’t believe my eyes. That was Jordan’s signature, all right.

20 18. I went to Jordan’s track practice, and I started yelling at Jordan in front of Terry.
21 I showed Jordan the bank records and demanded an explanation. Jordan looked at both of us and
22 said, “You both know where the money is going. You might as well buy it for me. How am I
23 getting so good? Not from doing dishes. Not from doing laundry.” Jordan looked right at Terry
24 and said, “You know. You explain it.” Jordan ran off and didn’t talk to me for a couple of weeks.
25 I asked Terry what Jordan meant, but all Terry said was, “I’ll take care of it.”

26 19. I monitored the account and the money kept getting withdrawn, but I couldn’t do
27 anything to stop it. I wish I had done something – I don’t know what – but I wish I had done
28

1 something.

2 20. On the morning of May 6, 2011, Jordan's school called and asked why Jordan wasn't
3 there. Jordan had a big track meet that day, and Jordan always went to school on days of track
4 meets, because you could only participate if you attended school. I called home, but there was no
5 answer. I knew something was wrong, so I drove home as fast as I could. When I got home, I
6 found Jordan lying in bed, eyes closed. I touched Jordan, and I felt like my life was over.
7 Jordan's body was cold. I screamed. I called 911.

8 21. Since then, I've taken leave from work. I can't function. I'm heavily medicated most of
9 the time. My life is gone. Everything I loved is gone. Jordan was my only child and my world.
10 I wanted Jordan to have the life I never had. Instead, Jordan is dead at 17 years old.

11 22. About a month ago, I found the strength to go through some of Jordan's stuff. In a
12 shoebox in the back of Jordan's closet, I found a bunch of syringes and small bottles containing a
13 clear liquid. I'm sure it was the steroids. I threw the box against the wall. Eventually, I gathered
14 everything up and tossed it in the trash.

15 23. Most days I sit in Jordan's room or lay on the bed and stare at the track trophies and
16 medals. I crave one more day with Jordan...one more run...one more breakfast...one more
17 conversation. I don't know how I can get through the rest of my life. For now, I'm just trying to
18 get through each minute with the pain and loss of losing my child to steroids.

19
20 Kerry Gautreaux

21 SUBSCRIBED AND SWORN to before me, a Notary Public, on January 6, 2012, by Kerry
22 Gautreaux.

23 NOTARY: /s/ Quincy Vargas

24 My Commission Expires: November 5, 2015

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AFFIDAVIT OF MORGAN PIERCE

STATE OF LOUISIANA
PARISH OF CREOLE

Morgan Pierce, duly sworn, under oath, and based on personal knowledge, attests as follows:

1. I am 18 years old and live in Chicory, Louisiana, with my parents. I am a freshman at Chicory Community College where I am a member of the track team. I graduated from Gulfside High School and was on the track team with Jordan for several years.

2. I have been running track since my freshman year at Gulfside. I was first introduced to track in my physical education class. My P.E. teacher was Terry Swift, the track coach. Coach Swift – who we just called “Coach” – suggested that I try out for the team because I was the fastest person in my class. Coach also told me that I might qualify to get a scholarship to cover some, if not all, of the tuition for attending Gulfside.

3. On the first day of tryouts, Coach told us about the school’s drug policy. Coach said that drugs were strictly prohibited. If we were caught with marijuana, cocaine, heroin, methamphetamine, or any other narcotic, we would be kicked off the team, and the police would be called. Then Coach gave us some LIA form to sign saying we wouldn’t use drugs. We went through the same process every year. Coach never said anything about steroids.

4. I never saw any posters or any other material about steroids in the locker room.

5. I first met Jordan Gautreaux during tryouts. Jordan was also a freshman and had been running track for several years. Both of us ran the 100 meters. Jordan and I hit it off - Jordan was pretty nice and was easy to talk to. After tryouts, we both made the team. I was extremely happy - so were my parents – because, to top it all off, I got a scholarship covering 50% of my tuition. Jordan and I started hanging out a lot. Not just at practice, but outside too. We were pretty close, despite the fact that Jordan was always a little faster than I was and usually edged me out at track meets.

1 6. Our first two years were pretty normal for track runners, I guess. During the season, we
2 would pull two-a-days, working out and lifting weights in the morning before class and running at
3 track practice after school. We usually met at my locker right after our last class and head out to
4 the field together.

5 7. Jordan changed a little our junior year. Jordan was really busy at home cooking dinner,
6 cleaning, doing the laundry, and shopping for groceries. I think all the extra work was too much
7 and just wore Jordan out. Jordan started to skip morning workouts with me. Jordan's running
8 suffered. I kept up my workouts, and my times kept improving. But, not Jordan. Jordan's times
9 started to dip towards the end of the season. We were pretty much tied by the final meet of the
10 season.

11 8. Coach noticed Jordan was slacking too and was not happy. It wasn't just Jordan's track
12 times. Jordan's grades started slipping too. Coach started riding Jordan pretty hard. It got worse
13 at the end of that year. One of the seniors received a full-ride scholarship to ASU – a top
14 Division 1 school. It's not that this was unusual or anything, I mean, Gulfside almost always
15 finishes in the top five in state, and every year it seems like someone gets a scholarship. That
16 scholarship came at a bad time for Jordan. Like I said, Coach was already riding Jordan pretty
17 hard, and we found out about the scholarship just as Jordan's times hit their lowest of the year.
18 Coach pretty much blew a gasket. One day, when I was in the locker room, I heard yelling
19 coming from Coach's office. I looked in the window and saw Coach standing over Jordan,
20 screaming and yelling. I heard Coach tell Jordan, "Forget about a college scholarship. If you
21 don't straighten up, I am going to yank your Gulfside scholarship!" Right then, Coach looked up
22 and saw me through the window. Coach pointed at me and hollered, "I hope you heard that,
23 because the same goes for you!" Then, Coach slammed the door and went back to yelling at
24 Jordan.

25 9. A week later Coach saw Jordan and me in the hall and told us to be at the end of the year
26 banquet early so we could talk. We did, and Coach pulled us into a side room one at a time.
27 I went first. Coach asked if I thought I could get my numbers up so that I could get a scholarship.
28

1 I said I was working really hard, and I thought it was possible. Coach then told me, “Getting a
2 scholarship for track takes more than just workouts and practice. It’s about what you put into
3 your body too.” I told Coach I knew that, and I was on a good diet. Coach said, “Diet, yeah,
4 that’s important too, but you know only the best of the best get scholarships, right? You have to
5 do whatever it takes.” “Yes,” I responded. Coach then told me that some of my competitors no
6 doubt were using “supplements” and that, whether I liked it or not, they were the ones who were
7 going to get the scholarships. Coach asked me what I thought about that. I said I didn’t think it
8 was fair. Then, Coach said, “It’s not fair, and I certainly won’t give you anything, but one year is
9 a pretty small price to pay for a scholarship that could have lifelong benefits.” With that, Coach
10 told me to send Jordan in.

11 10. About ten minutes later, Jordan sat next to me at the table. I asked about the meeting
12 with Coach. Jordan wouldn’t look at me, but said, “One year is a pretty small price to pay for a
13 scholarship. Coach is right.”

14 11. The summer after our junior year Jordan and I didn’t hang out that much. I had gotten a
15 summer job to try to start saving for college just in case, and Jordan still was pretty busy at home.

16 12. Things really began to change when our senior year started. Don’t get me wrong, we
17 were still pretty close, it’s just that Jordan started acting funny. Most of the time Jordan just
18 wanted to focus on track. We didn’t meet at my locker after class anymore – Jordan went home
19 instead and met me on the field. It seemed like Jordan didn’t want to hang out, but only wanted
20 to work out. After practice it was the same thing. Jordan would just go straight home, without
21 even showering. At the time, I just figured Jordan was embarrassed, because Jordan had started
22 to get some pretty bad body acne.

23 13. Jordan started getting sick a lot too. It started with the nosebleeds. It seemed like once
24 a week Jordan would have to duck out of one of the classes we had together to see the school
25 nurse. Then Jordan started missing school. It happened a lot. When I asked about it, Jordan just
26 told me it was the flu or a bad cold. I figured it was just stress from trying to get a scholarship
27 and from the pressure Coach put on Jordan every practice.
28

1 14. I was amazed when track season finally started. Despite being sick all the time and
2 missing school and practice, Jordan's numbers were up. I mean way up. Usually, it takes a little
3 time to get back into the swing of things, but not for Jordan. Right from the start, Jordan's
4 numbers were tenths of a second ahead of the previous year – that's a lot for the 100 meters.

5 15. Coach kept a chart of our best times on a bulletin board in the locker room. It showed
6 our time at the final meet of the year for every year we had been on the team, and our current best
7 time. Everyone saw how much Jordan had improved. A lot of the other runners started talking.

8 16. Right away, I knew something wasn't right. Jordan idolized Coach. Jordan always
9 talked about what a great track career Coach had before becoming a teacher. Jordan wanted to be
10 just like Coach. That's when I remembered our talk with Coach before the banquet. I know that
11 Jordan would do whatever Coach said. I quickly put two and two together, and that's when I
12 realized Jordan was using steroids.

13 17. I didn't know what to do, so I decided to talk to Coach. I knew I was risking my
14 scholarship to Gulfside, but I had saved up some money from my summer job. I had to risk it.
15 Jordan was my friend and was in trouble. So, I told Coach about my suspicion. Coach asked if I
16 had seen Jordan use steroids, if I had seen the steroids, and if I had approached Jordan with my
17 concerns. Of course, I said no. Coach said, "Then my hands are tied. Besides, whatever you are
18 worried about can't be that bad, just look at Jordan's times." That must have been toward the end
19 of April, maybe the beginning of May.

20 18. A few days later, on May 6, 2011, I went to school like any other day. I didn't see
21 Jordan at school that day. I figured Jordan was sick again, but I thought it was odd, because we
22 had a track meet that afternoon and Jordan never missed school on the day of a meet. Toward the
23 end of the day, there was a page over the intercom in my classroom. I was asked to go to the
24 front office. When I got there, a bunch of people were huddled around talking quietly. One of
25 them, a school counselor, came over and put his arm around me and took me to his office.
26 I started getting worried. I asked what was wrong. He said he would tell me in just a moment.
27 As I walked into his office, my heart started beating harder. I sat down. He closed the door and
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

sat down next to me. He wouldn't look at me. I was starting to panic and asked him what was going on. That's when I found out that Jordan died. I thought he must be wrong. It felt like the wind had been knocked out of me. He said it happened sometime in the middle of the night. I don't remember what else he said.

19. A little while later my mom came to pick me up. When I left the office, I saw Coach in the front office, sitting alone and crying. As I left with my mom, I remember turning to Coach and saying, "I hope you're happy. You killed my best friend."

20. I quit the team the next day. Even though Coach was put on administrative leave, I still couldn't go back to that locker room. I couldn't be on that field. I couldn't be where my Coach slowly killed my best friend.

Morgan Pierce

SUBSCRIBED AND SWORN to before me, a Notary Public, on January 3, 2012, by Morgan Pierce.

NOTARY: /s/ Jules Stanton

My Commission Expires: September 18, 2014

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AFFIDAVIT OF LYNN ROPER, Ph.D.

STATE OF MICHIGAN
COUNTY OF WAYNE

Lynn Roper, Ph.D., duly sworn, under oath, and based on personal knowledge, attests as follows:

1. I obtained my Bachelor of Science degree in physical education and health in 1989 from the University of Louisiana at Pontchartrain City. From 1989 to 1994, I taught high school physical education and health in Eugene, Louisiana. I also was the head track coach at the local high school.

2. In 1994, my favorite nephew, Scott, died of a heart attack. It was devastating and a shock to the whole family, because Scott was only 16 years old. He played sports since he was a young boy, and he was in great physical shape. Scott always looked up to me and said that he wanted to follow in my footsteps and become a physical education teacher and coach.

3. I always pushed Scott to be the best athlete he could be in every sport. He always worked hard and excelled at every sport he played. I was very excited when Scott began playing linebacker for his high school's varsity football team. It was amazing how quickly Scott developed. He was bigger than anyone else on the team in no time at all, and he quickly became the star linebacker. I was so proud of all of Scott's hard work.

4. I'll never forget the fall afternoon in 1994 when I received a call from my sister, Scott's mother. I could tell immediately that something bad had happened, but nothing could have prepared me for what I was about to learn. I was absolutely devastated when my sister told me that Scott collapsed at football practice and was dead. My disbelief turned to anger when the autopsy report came back several days later and revealed that Scott had been taking steroids. Although I had no clue that Scott was using steroids, I still feel guilty for pushing him so hard and setting my expectations too high. I decided to learn more about steroids, and I vowed to do whatever I could to hold those who encourage steroid abuse accountable for their actions. It was my new mission in life.

1
2
3 5. I couldn't bear to coach anymore after Scott's death, so I quit teaching and coaching and
4 returned to graduate school at the Southwest University at Pelican Point. I obtained my Master of
5 Science degree in applied exercise physiology in 1997, and I obtained my doctorate in applied
6 exercise physiology in 1999. My doctoral dissertation was entitled, "Juice Isn't Just For
7 Breakfast Anymore: The Use of Steroids by Amateur Athletes." It focused on the use of
8 stanozolol, which was the steroid found in Scott's system.

9
10 6. In 1999, after obtaining my Ph.D., I took a position as a researcher at the Human
11 Performance Laboratory ("HPL") in the Department of Kinesiology and Health Education in the
12 College of Education at Longhorn University in Texas. Kinesiology is the scientific study of
13 movement. One of the primary goals of the discipline is to understand the processes that control
14 movement and the factors that affect the acquisition of motor skills. At the HPL, we studied
15 oxygen consumption and cardiac output in humans.

16
17 7. In 2003, I accepted a position as the executive director of the Midwest Institute for
18 Exercise Physiology in Michigan ("MIEP"). MIEP is a private for-profit organization that studies
19 all aspects of exercise physiology. Since my arrival, I have focused MIEP's studies on the use of
20 steroids by both amateur and professional athletes for two reasons: first, I have a deep personal
21 interest in the subject, and second, as executive director, my most important responsibility is the
22 bottom line. As everyone knows, the abuse of steroids is a hot issue in our field, so MIEP's
23 published studies have become very profitable.

24
25 8. One of the conditions of my accepting an executive director position at MIEP is that I be
26 allowed to do consulting on the side. Since 2003, I have accepted approximately 15 outside
27 engagements. I was contacted by the attorneys for Kerry Gautreaux to provide expert testimony
28 in Kerry's case against Terry Swift and Gulfside High School. I am charging my standard fee of
\$500 per hour. I have not been paid yet, but I estimate that my total fee will be approximately
\$10,000. I will probably donate half of my fee to the Scott Johnson Foundation, a non-profit
organization I established in memory of my nephew. The Foundation's mission is to educate

1 young amateur athletes about the dangers of steroid abuse and to do whatever we can to hold
2 those who encourage steroid abuse responsible for the harm that they cause.

3 9. Steroids are not bad in and of themselves. In fact, steroids are hormones naturally
4 produced by the human body. Naturally produced steroids help control: (i) the stress of illness
5 and injury; (ii) immune functions; (iii) inflammation; (iv) metabolism; and (v) salt and water
6 balance. Synthetic steroids are chemically similar to natural steroids and duplicate their actions,
7 and they can be prescribed by doctors for various legitimate medical treatments. Some of the
8 synthetic steroids that are commonly prescribed include cortisone, hydrocortisone, and
9 prednisone. All three of these synthetic steroids are often used to suppress inflammation and can
10 alleviate the symptoms of inflammatory conditions such as arthritis and asthma.

11 10. Even the steroids that are used for legitimate medical purposes have serious side effects,
12 such as: (i) bone thinning; (ii) high blood pressure; (iii) fluid retention; (iv) mood swings; (v)
13 weight gain; (vi) muscle weakness and pain; (vii) nerve damage; and (viii) decreased resistance to
14 infection. Because of the potential severe consequences, it is important that the use of steroids be
15 monitored closely by a medical doctor.

16 11. Steroids are commonly abused by athletes – illegally – either orally or by injection to
17 increase muscle mass and strength. These steroids allow athletes to recover from a hard workout
18 more quickly. Some athletes also like the aggressive feelings steroids usually cause.

19 12. Having too much of a particular steroid in your body can have serious side effects, many
20 of which aid in determining whether someone is abusing steroids. Males may develop baldness
21 and a higher voice. Females may develop a deeper voice, increased body hair, and increased
22 appetite. Both males and females may experience: (i) severe acne; (ii) liver problems; (iii)
23 increased bad cholesterol and decreased good cholesterol; (iv) aggressive behavior; (v)
24 depression; (vi) distractibility and irritability; (vii) extreme mood swings; (viii) paranoid jealousy;
25 and (ix) impaired judgment stemming from feelings of invincibility. Indeed, there are several
26 documented incidents of steroid abuse causing young athletes to commit suicide.

1 13. Erythropoietin (“EPO”) is a type of steroid used by endurance athletes, such as cyclists,
2 long-distance runners, speed skaters, and cross-country skiers to increase their endurance. This is
3 often called “doping”. The abuse of EPO is difficult to detect, however, because the available
4 tests cannot distinguish between naturally produced EPO and synthetic EPO.¹

5 14. EPO is synthetically produced but is also naturally produced by the kidneys.
6 It stimulates the bone marrow to make red blood cells. The rise in red blood cells increases the
7 oxygen-carrying capacity of the blood. It is possible for the body to produce too much EPO on its
8 own.

9 15. Synthetic EPO, which is very expensive, is injected as a medical treatment for certain
10 types of anemia. It can also be given prior to surgery to patients who cannot receive a blood
11 transfusion for medical or religious reasons to counteract expected blood loss during surgery.

12 16. Elevated levels of EPO can be extremely dangerous, especially when combined with
13 vigorous exercise, because it increases the viscosity (or thickness) of the blood. Thicker blood
14 has trouble passing through the body’s thin capillaries. One common side effect of abusing EPO
15 is recurring nosebleeds. Another side effect is that a person abusing EPO becomes ill more often,
16 because the EPO lowers the white blood cell count, resulting in a failure of the immune system.
17 More significantly, when an athlete who uses EPO sleeps, the athlete’s heart beats very slowly,
18 increasing the risk for a heart attack or stroke.

19 17. It is difficult to know precisely how many student athletes are abusing steroids, because
20 most of the studies rely on surveys of the student athletes themselves. But, it is clear from studies
21 by the Centers for Disease Control and Prevention that the abuse of steroids by students is on the
22 rise and student athletes are using steroids at younger ages.

23 18. The World Anti-Doping Society (“WADS”) was established in 1999 to promote and
24 coordinate the international fight against doping in competitive sports. It was set up as a
25 foundation under the initiative of the International Olympic Committee with the support and
26 participation of intergovernmental organizations, governments, public authorities, and other
27

28 ¹ For purposes of this Mock Trial Problem, EPO and other performance-enhancing substances, including anabolic
steroids, are included in the broad category of steroids.

1 public and private bodies fighting against doping in sports. WADS generates a list of prohibited
2 substances each year, and this list has become the standard in competitive sports. Accordingly, I
3 stay familiar with and can testify regarding WADS's list. EPO is on WADS's list of prohibited
4 substances.

5 19. I always believed that mandatory testing of athletes was an invasion of the right to
6 privacy guaranteed by the Constitution. When Scott died, however, I realized how wrong I was
7 and changed my mind. Designating a steroid as a prohibited substance does not do any good
8 unless the athletes are tested for prohibited substances. Accordingly, I believe that random
9 testing of high school athletes should be mandatory. Unfortunately, no state has yet adopted
10 mandatory random testing, but lawmakers in Florida and Michigan are trying to do so.

11 20. Although no state requires mandatory random testing, I believe that individual school
12 districts and schools should institute mandatory random testing programs. Several already have.
13 Most school districts, however, do not have random testing programs because of the cost.
14 Although the initial test is only \$80 per student athlete, it costs significantly more to conduct a
15 second round of tests to confirm a positive initial test.

16 21. Although mandatory testing programs are a good deterrent, mandatory testing programs
17 are not 100% effective, primarily because steroid abusers come up with ways to beat steroid tests.
18 SO, even when mandatory testing programs are used, it is important that athletic directors and
19 coaches be vigilant in (i) watching their student athletes for signs of steroid abuse, and (ii)
20 counseling their student athletes against using steroids, especially where signs of steroid abuse are
21 present. In this regard, I believe that all high school athletic directors and coaches should attend a
22 six-hour course regarding steroid abuse taught by a certified instructor. In addition, they should
23 attend an annual refresher course to stay informed on the constant changes that occur with respect
24 to steroid abuse by athletes.

25 22. High school athletes are vulnerable and are under a lot of pressure. This is especially
26 true with athletes who are looking to gain the edge necessary to compete at the next level. High
27 school coaches need to be careful not to say or do anything that their student athletes could
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

construe as encouraging the use of steroids.

23. I reviewed all of the affidavits and all of the exhibits in this case. These are the type of documents that I typically review in my consulting engagements, depending on the type of engagement.

24. The amount of EPO in Jordan Gautreaux’s system at the time of death was extremely high and in my opinion was the cause of Jordan’s heart attack.

25. If the State of Louisiana or Gulfside High School had a mandatory random testing program, then either: (i) Jordan’s steroid abuse could have been discovered; or (ii) the program may have deterred Jordan from using steroids. But, even without a mandatory testing program, I believe that it should have been obvious to Terry Swift, Jamie Knight, and others that Jordan was abusing steroids. Gulfside’s coaches and athletic director had a responsibility to take steps to prevent and stop Jordan’s steroid use. Instead, in the face of clear evidence of steroid abuse, Coach Swift continued to push Jordan to improve Jordan’s times. I believe that this led to Jordan’s use of steroids and ultimately caused Jordan’s death.

Lynn Roper, Ph.D.

SUBSCRIBED AND SWORN to before me, a Notary Public, on January 13, 2012, by Lynn Roper.

NOTARY: /s/ Sean Morris

My Commission Expires: May 23, 2014

1 **AFFIDAVIT OF TERRY SWIFT**

2 STATE OF LOUISIANA

3 PARISH OF CREOLE

4
5 Terry Swift, duly sworn, under oath, and based on personal knowledge, attests as follows:

6 1. I am 55 years old and currently work for Gulfside High School. I am on administrative
7 leave and have been since May 2011.

8 2. I graduated from Mississippi Drake University with a Bachelor's degree in physical
9 education in 1982. I received my Master's degree from the University of Louisiana at Pelican
10 Point in physical education in 1985. Gulfside was the first school I worked for after graduating
11 from Pelican Point. I've been a freshmen and sophomore physical education teacher at Gulfside
12 for 27 years. I've been the coach for the co-ed track team at Gulfside for almost that long.

13 3. I was so grateful that Gulfside allowed me to continue to coach after I was convicted of
14 possession of marijuana six years ago. Even though it was my first offense, I still served six
15 months in jail – the max time allowed. Gulfside just found a substitute to take my place while I
16 was out. I hope the parents in the Parent Pool never find out about that.

17 4. Gulfside is a private school, and the faculty members are expected to serve on one or
18 more committees. I am the chair of the scholarship committee which is responsible for evaluating
19 all students for academic and need-based scholarships. Gulfside is an expensive school. Tuition
20 alone is \$15,000 per year. A lot of parents can't or don't want to pay that much for school.

21 5. I was on the track team in college. I went to Drake on a full-ride scholarship. I never
22 took drugs, but many of my classmates in high school did. Some of them used diet pills, steroids,
23 and others used illegal prescription drugs to get a competitive edge. I think the drugs let some of
24 my classmates get into schools with great track programs.

25 6. After college I tried to make the Olympic team. I trained very intensely and almost made
26 the team. Most of the runners, I think, were using steroids. I just couldn't keep up. Today,
27 steroids are even more prevalent with professional and Olympic athletes.

1 7. Track is a very competitive sport. For five years, our school has finished in the top three
2 in the state in track and field. We consistently have the fastest and strongest runners.

3 8. I am always on the lookout for students with the potential to be strong runners. I first
4 became aware of Jordan Gautreaux when I happened to attend a meeting at Jordan's middle
5 school on the day of a track meet. Jordan was an incredible sprinter for a middle school student.
6 I could not have been happier when I found out that Jordan was interested in Gulfside.

7 9. The scholarship committee awarded Jordan a scholarship based on my recommendation.
8 Jordan would not have been able to attend Gulfside without the scholarship – that's why Jordan
9 fit the criteria for a need-based scholarship. A condition of keeping a scholarship at Gulfside is to
10 maintain a satisfactory attendance and academic record.

11 10. Teachers don't usually make a lot of money, but we make more than average at Gulfside.
12 I've been teaching a long time, so I make more than most teachers. I also have the advantage of
13 the Parent Pool. The better I do with the track team, the more money the parents chip in to the
14 Parent Pool. The parents like that I get good college recruiters to come look at their kids and the
15 parents reward me for a "job well done." Three years ago, I made \$14,000 off the Parent Pool.
16 Two years ago, I made \$22,000. That money is on top of my salary.

17 11. I have never encouraged my students to take steroids or any drugs. I am honest about
18 the world, but that doesn't mean that I encourage them to take drugs.

19 12. I think it is irresponsible not to tell the kids about the realities of sports. Everybody
20 knows that many athletes cheat by using performance-enhancing drugs like steroids, including
21 testosterone and EPO.

22 13. I have told my kids that many top athletes dope, but they get paid well. In fact, some of
23 the better players have advisors that tell them how to avoid testing positive. Today, college and
24 professional athletes have to dope to stay competitive.

25 14. The kids and I talked openly about performance-enhancing substances. It really is hard
26 to detect EPO in your body, and I'm sure I told the kids that. One runner on my team, Eli
27 Sanders, asked how to get EPO. I told Eli, in front of all the other kids, that no one on my team
28

1 needs to take drugs. I think I told the kids that anyone can get steroids today, or any performance
2 enhancing drugs, from the internet or almost any “gym rat.” Some get the drugs from
3 veterinarians, and others get the drugs from doctors.

4 15. It was my policy to have every kid sign a LIA form before they could participate in
5 track. If a kid was gone from practice on the day I gave out the LIA form, I followed up with the
6 kid the next day and got a signature on the LIA form. When I handed out the forms, I always
7 said, “This is an important form. Read it, sign it, and follow it.” I even kept a folder for every
8 kid and put their LIA forms in their files. Some lawyers came to my office and went through all
9 my papers. They took all the LIA forms I kept. They also took my time record for the 100
10 meters that I had posted in the locker room. For each event, I keep a record of all the kids’ times
11 by year. That way, I can see if the kids are improving or slowing down.

12 16. After the lawyers took all my stuff, I learned that the LIA form in Jordan’s file wasn’t
13 signed. I don’t know how that happened. Maybe Jordan handed it in without a signature on it?
14 I didn’t check every form. I just assumed that every kid would do what I asked – read and sign
15 the form. If Jordan was sick on the day I handed out the LIA form, I’m sure I would have
16 followed-up and gotten a signature from Jordan on a different day.

17 17. EPO is expensive. I didn’t think any of the kids – even at a school like ours – could
18 afford it. I also didn’t think any of the kids took it.

19 18. I told all the students every year, “Don’t smoke, drink, or do any drugs.” I meant it.
20 I received some poster about steroids through some high school association. I didn’t hang it up –
21 it looked really disgusting with the photo of the back ache. Gross! I also received some brochures
22 about steroids, and I passed those out in my P.E. classes. I think the attorneys took the poster and
23 the brochures when they rummaged through my office.

24 19. Jordan was a good kid. Jordan seemed to really want to run in college and maybe try out
25 for the Olympics or run professionally. I didn’t think Jordan had the talent, but during 2011, my
26 opinion started to change.

1 20. Back when Jordan was a sophomore and a junior, things weren't going so well. I knew
2 that Jordan had a lot of responsibilities at home, but school and track were taking a backseat.
3 I told Jordan that the high school scholarship was on the line. If school and the track team weren't
4 a priority for Jordan, Gulfside would send Jordan packing for the public school down the street.

5 21. Jordan started breaking records during the 2011 season. Jordan was shaving tenths of
6 seconds off times that I didn't think could get any lower. I was amazed. I figured the pressure
7 worked and I liked the results.

8 22. I was getting impressed. I was making lots of calls for Jordan, advising recruiters to
9 come take a look. I put a lot of pressure on Jordan because Jordan did well under pressure.

10 23. I talked to Kerry Gautreaux at some of the meets. I remember one day back in April
11 2011, Kerry came running into the gym. The kids were stretching, getting ready to do sprints.
12 Kerry was waiving around a paper, yelling at Jordan. I went over to see what the issue was.
13 Jordan pointed at me and yelled something like, "You know how I'm getting so good – you
14 explain it." Jordan stomped off. I told Kerry I'd handle the situation.

15 24. The next day I talked to Jordan after practice. I told Jordan I was proud of the
16 commitment he made to be a great runner. I knew Jordan was working hard. I told Jordan that I
17 thought the Olympics were a reasonable goal. I told Jordan to keep focused and stay clean.
18 I asked Jordan if there was anything I needed to know and Jordan said, "no."

19 25. I never thought there was a problem, and I never thought Jordan was using steroids.

20 26. We had to stop practice a couple of times because of Jordan's nosebleeds. I knew that
21 nosebleeds were a symptom of using EPO, but Jordan wasn't the doping kind of kid. Jordan
22 always begged me not to tell Kerry about the nosebleeds, so I didn't.

23 27. I also noticed that Jordan was out sick a lot during that last year. I knew EPO lowered a
24 person's immunity, but almost all of our kids get sick during the season – just comes with the
25 territory. Besides, I never saw injection marks on Jordan's arms.

26 28. I remember a day in early to mid-April 2011 when I was picking up my mail from the
27 front office. My hands were full, and I was in a hurry to get to track practice. I was rushing by
28

1 Jamie Knight's office, when Jamie asked if I had a minute. Jamie told me that Jordan printed an
2 article about EPO and asked me to talk to Jordan about it. Jamie placed the article on the stack of
3 papers I was carrying, and I headed to my office. I didn't read it at the time. I dropped the papers
4 I was carrying on my desk and went straight out to practice, so I'm sure it was in the stack of
5 papers the attorneys took. I didn't have the chance to talk to Jordan about the article before
6 Jordan died.

7 29. I wish I would have known that Jordan was using steroids. We could have had a heart-to-
8 heart talk about the dangers of doping. I don't think it would have mattered, but at least I
9 wouldn't feel so guilty. I do not believe that I did anything to encourage Jordan to take EPO, and
10 I don't think I could have stopped it. I cared about Jordan very much. I'm a real person - I don't
11 want to see a 17-year old kid die needlessly. My heart breaks for the family, but I just don't think
12 I'm to blame.

13
14 Terry Swift

15 SUBSCRIBED AND SWORN to before me, a Notary Public, on January 4, 2012, by Terry Swift.

16 NOTARY: /s/ Olympia Petersen

17 My Commission Expires: December 1, 2014
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AFFIDAVIT OF JAMIE KNIGHT, Ed.D.

STATE OF LOUISIANA
PARISH OF CREOLE

Jamie Knight, Ed.D., duly sworn, under oath, and based upon personal knowledge, attests as follows:

1. I am 50 years old and live in Chicory, Louisiana, with my spouse and two children. I am currently the Assistant Principal of Gulfside High School. I am also the school’s athletic director. I am being considered to replace our current principal who is due to retire at the end of this school year.

2. I graduated from the Orlando Blake University in 1986 with a degree in Education. I received my Masters in Education in 1990, also from OBU. I taught at a high school in, Valley, California for several years before returning to OBU for my Doctor of Education, which I received in 2000. I then moved to Chicory and taught at Gulfside for a few years before being offered the job as assistant principal in 2006. I was a basketball coach at Gulfside at that time. I remained a coach until 2008, when I was asked to be the school’s athletic director.

3. Gulfside is a private high school. We employ the best teachers and produce the best students. This does not come cheap. Our students’ parents pay \$15,000 per year in tuition, but this is a small price to pay for the level of education we provide. As with most schools that charge tuition, we do offer scholarships, both academic and need-based.

4. Because of the level of professionalism we expect, our teachers are paid more than most. Additionally, those teachers who take on the extra assignment of coaching receive a higher salary. This is complemented by a Parent Pool. The Parent Pool is funded by parents’ pledges at the beginning of the school year. The better the student or team does, the greater the bonus for the coach. The parents generally enjoy this incentive system, because it increases the notoriety of our athletic program as well as the scholarship chances of our students.

5. As one would expect from a school like ours, we have a rigid Zero Tolerance Policy when it comes to substance abuse. If a student is found to have possessed or abused a controlled

1 substance, there are a number of steps we must follow.

2 a. First, the offending student is suspended from extracurricular activities. If the student
3 is an athlete, that student is immediately suspended from the next tournament or game. The
4 student may continue to participate in practices so that the student remains in competitive shape,
5 but the student must sit out the next competition. If a second violation occurs, the student athlete
6 is banned for 8 weeks, which is a substantial penalty because it means most of the season is lost.
7 The suspension may be reduced to 3 weeks if the student agrees to see one of our school
8 counselors. Upon the third violation, the student athlete is banned from competition permanently.

9 b. Second, parents are notified regardless of whether the student has attained the age of
10 majority.

11 c. Third, additional action may be taken by the school, if appropriate. This includes, but
12 is not limited to, detention, suspension, and expulsion.

13 d. Finally, if the student is found in possession of a controlled substance, the police are
14 contacted immediately.

15 6. Since I became the athletic director, there have been 13 violations of the policy by
16 student athletes - at least one in every sport, well, except track. These violations have all been
17 reported by the coach, the team captain, or another teammate. Only two students have violated
18 the policy a second time. One student was a sophomore and a member of the basketball team.
19 The other was a junior and on the football team. On both occasions, the second violation took
20 place midway through the season, so the students were suspended for the remainder of the season.

21 7. Coaches at Gulfside are held to a similarly high standard. Any coach who may have had
22 knowledge of a student's substance abuse and promoted or remained silent about the abuse will
23 immediately be placed on administrative leave. A formal inquiry then will be conducted.
24 If found to be in violation of the policy, the coach will be terminated immediately. The authorities
25 may be contacted if criminal conduct is suspected. No coach has ever violated this policy;
26 although, Terry Swift remains on administrative leave.

1 8. All coaches are required to attend a workshop at the beginning of each school year.
2 Among other things, the workshop provides training to spot abuse of all forms of controlled
3 substances. Coaches are taught the warning signs of use and are instructed on the appropriate
4 actions to take in the event use is suspected. Additionally, coaches are provided with a copy of
5 Section 14.13 of the Louisiana Interscholastic Association (“LIA”) Bylaws and LIA Form 14.13.
6 Coaches are required to explain the policy and form to the students and then obtain signatures
7 from the students on a copy of the form. Coaches are also provided pamphlets, posters, and other
8 instructive materials to post in locker rooms and training facilities and to distribute to students.
9 Each coach has the discretion to determine how to use these materials.

10 9. I am aware that Coach Terry Swift did not attend the workshop at the beginning of the
11 2010-2011 school year. Terry requested leave to take a much-needed vacation. I granted the
12 request because I knew Terry had attended the workshop in previous years, and the training really
13 had not changed. I told Terry that I would obtain copies of all materials distributed in case Terry
14 wanted them. I ended up giving the material to Terry, but I’m not sure what he did with them.

15 10. I am also aware that Jordan Gautreaux did not sign that LIA form this past year. I was
16 told that this was because Jordan was ill and not present on the first day of the track season. I do
17 know that Jordan has signed the form in the past.

18 11. Jordan Gautreaux’s death came as a shock to the faculty, staff, and students of Gulfside.
19 I knew Jordan personally. As athletic director, I attend as many athletic competitions as my
20 schedule will allow and enjoyed watching Jordan blossom into a great sprinter. Jordan had a
21 great attitude and worked hard. When you work hard, you get positive results. That’s what I saw
22 with Jordan – positive results. I never thought Jordan would use steroids.

23 12. Understandably, Jordan’s death as well as recent media attention involving professional
24 athletes has raised the issue of random drug testing. Gulfside does not currently test student
25 athletes, and I do not see such testing in our foreseeable future. One reason is that drug testing
26 simply isn’t reliable. It isn’t 100% effective. For instance, there are numerous substances for
27 which the tests don’t pick up. Another more significant reason is that we simply can’t afford it.
28

1 We have over 100 student athletes and these athletes would need to be tested regularly for the
2 testing program to be effective. Although our school tuition seems high, I assure you we are on a
3 very tight budget. We currently need to update our computer lab, add additional space for
4 classes, and hire more teachers. We are forced to turn away a large number of students because
5 we simply do not have the space. If testing were effective and affordable, I would certainly
6 consider it.

7
8 13. At Gulfside, our focus is on education and prevention when it comes to drug use. In this
9 regard, we have implemented a comprehensive program designed to educate students on the
10 harmful effects of drug use. All students are required to take a Health course their freshman year.
11 This course deals with a range of issues from CPR to ways to stay healthy. It is mandated that
12 one week be spent specifically on drugs, including steroids. Emphasis is placed on the physical
13 dangers of drug use, legal consequences, and how to recognize whether a friend is using drugs.
14 We also instruct students on our confidentiality policy when it comes to reporting the drug use of
15 fellow students.

16
17 14. After Jordan's death, we asked a local physician to speak with the students about the
18 dangers of steroid use. He has volunteered his services in the future, and we have accepted.
19 Now, we will have a similar lecture every school year.

20
21 15. I find it hard to believe that Terry Swift – and Gulfside, for that matter – is being sued
22 for Jordan's death. I have the utmost respect for Terry. Terry puts in as much time, if not more,
23 than any of our other coaches. This includes practice, off-season training sessions, chairing the
24 scholarship committee, and even tutoring students who are struggling to make eligibility because
25 of poor grades. As a result of this effort, Terry was a district finalist two years ago for teacher-
26 coach of the year. Students nominate coaches for this award by writing an essay explaining how
27 the coach has made a positive impact on their life, both on and off the field.

28
29 16. Our track team finished first in the state competition last year. In fact, we have finished
30 first three times in the past five years, and we haven't finished below third place since Terry came
31 on board. This is due to Terry's effort and dedication, but I know that winning isn't everything for

1 Terry. Terry would be happy if the team didn't win, as long as the students gave their best.

2 17. It is true that I have received three complaints from parents about Terry. The parents
3 were concerned that Terry was pushing their children too hard. I take these complaints seriously.
4 I personally investigated the claims to determine if there was any merit, and I found none. I was
5 not surprised. As a basketball coach, I probably received two or three complaints per year for
6 being too hard on students or not playing someone's child enough. I assure you there was no
7 merit to those complaints. Some parents just don't understand that participation in athletics isn't
8 all high-fives and smiles.

9 18. Our school has taken steps to prevent students from abusing internet privileges on the
10 school's computers. Each student is assigned a username and password. When a student prints a
11 document, the document prints on a printer behind the library reference desk. A cover sheet is
12 printed with the student's name and ID number. The student must then ask the librarian for the
13 printout. The librarian briefly reviews the content, and so long as it is appropriate, gives it to the
14 student. If the student doesn't pick up the printout, it will be placed alphabetically in a file in case
15 the student requests it later. This process is followed with every printout from a school computer.

16 19. On April 11, 2011, I received a visit from Mrs. Andrews, our school librarian. She had
17 one of Jordan's printouts from the day before that she thought I should see. Mrs. Andrews knew
18 it was Jordan's because the cover sheet that printed with the article had Jordan's name and
19 student ID on it. The printout was an article titled "Enhancing Your Performance the Unnatural
20 Way: A Look at the Banned Substance EPO" written by Chris Tull. It appeared on the
21 beginnertriathlete.com website on April 10, 2011.

22 20. On the afternoon of April 12, 2011, I gave a copy of the article to Terry. I asked Terry to
23 have a talk with Jordan. I wanted Terry to determine if there was a chance Jordan was using this
24 EPO substance and to remind Jordan once again of the school's Zero Tolerance Policy. I was
25 sure that Terry would talk with Jordan and let me know if there was a problem, so I didn't give it
26 another thought.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

21. I cannot express in words how devastating Jordan’s death has been for me. I cannot escape the feeling that there is something I could have done to prevent this tragedy. I realize, however, that I did everything I could. The education and well-being of our students are our primary concerns at Gulfside. We have done the best we can to prevent and deter drug use, but the simple fact is no matter what we do, if a student wants to use illegal substances, the student will find a way.

Jamie Knight

SUBSCRIBED AND SWORN to before me, a Notary Public, on January 5, 2012, by Jamie Knight.

NOTARY: /s/ Leslie Smith

My Commission Expires: February 12, 2016

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AFFIDAVIT OF AUBREY BRADY

STATE OF TENNESSEE
COUNTY OF KNOX

Aubrey Brady, duly sworn, under oath, and based upon personal knowledge, attests as follows:

1. I was born and raised in Tennessee. Sports were a very important part of my life growing up. My daddy played football for the University of Tennessee – the “UT” Grizzlies – long before I was born. For as long as I can remember, my family has attended every home game. Nothing can compare to that experience – thousands of maroon-clad fans packed into the stadium and tailgating with Griz fans. It was a foregone conclusion that I would be attending UM. I couldn’t wait to become a part of the Grizzly tradition.

2. I earned my Bachelor of Science degree in exercise science in 1990 from the University of Tennessee. I obtained my teaching certificate and immediately began teaching physical education at Dutchman High School in Tennessee (the Bulldogs – not as fierce as the Grizzlies). Dutchman has a long tradition of academic excellence, but the Bulldog Athletic Department is also an important part of the Dutchman experience. Dutchman’s philosophy is that an excellent athletic program in itself can be a meaningful learning experience. This philosophy was instilled in me as a young teacher, and it convinced me that I made the right career choice. I really loved my job as a teacher and the significant influence that I had as a teacher on my students’ lives. While I was teaching, I continued with my education at UT in my spare time. I ultimately earned my Masters of Science in Sport Management in 1999.

3. As much as I love attending Grizz football games, football is not my sport. Instead, I grew up playing soccer. I jumped at the opportunity to be the assistant soccer coach when the position came open at Dutchman. I took the position and became the head coach a few years later. I served as the head soccer coach until I was promoted to assistant principal in charge of discipline and athletics.

1 4. I wasn't fortunate enough to get an athletic scholarship to UT, so I had to take out student
2 loans to get through school. Everyone knows that teachers don't make much money and often
3 have to come out of pocket to buy school supplies, so it's no surprise that I had to take out more
4 loans to get through graduate school. By the time I was done, it was hard to pay all of my living
5 expenses as well as make my student loan payments. Even with the increase in pay that came
6 with my promotion to assistant principal, I still was not making any headway. So, as much as I
7 enjoyed my job, I had to find a way to make more money. Then, I read an article somewhere that
8 mentioned something about how much consultants charge for their services. All I had to do was
9 find a topic and start consulting. Not long after that I started developing my consulting practice.
10 I have been consulting full-time for about six years now. I've found that the challenge in building
11 a successful consulting practice is doing whatever it takes to give your clients what they want so
12 that they will hire you for repeat engagements. It's all about the repeat engagements.

13 5. I consult in the areas of sports management and administration. Much of my time is
14 spent reading articles and reports published in various periodicals and journals around the country
15 so that I can keep up to date in what is a very fast-paced environment. I specialize in preparing
16 compliance programs to ensure that the athletic organization adheres to the rules and regulations
17 of the governing bodies to which it belongs. I found that to be one of the more lucrative areas of
18 consulting, and more importantly, an area that is prime for repeat engagements. I consult for both
19 professional and amateur athletic organizations in Tennessee and the surrounding areas.

20 6. Within the last year, I began expanding my consulting services to serve clients
21 nationwide. I was pleased when I received a call from the lawyers for Terry Swift and Gulfside
22 High School to consult in this case. The Deep South is a natural area for expansion of my
23 practice, and I hope to do more work in Cajun country. Because I hope this will lead to more
24 opportunities, I am charging a discount flat fee of \$5,000 for my services. I have reviewed the
25 statements of the other witnesses and all exhibits, have spoken with the defense counsel, and
26 prepared this affidavit setting forth my opinions. Oh, this will also cover my expenses to testify at
27 trial.
28

1 7. As assistant principal in charge of athletics at Dutchman, I became actively involved with
2 the Tennessee High School Athletic Association (“THSAA”), which is the governing body for
3 high school athletics in Tennessee. Part of my job is to ensure Dutchman’s compliance with the
4 THSAA’s rules and regulations. The THSAA Bylaws and regulations do not contain any
5 provisions relating to drug or steroid use. Rather, the local school boards in Tennessee are free to
6 make their own regulations regarding drug and steroid use. I tried to get the THSAA to establish
7 rules and regulations regarding drug and steroid use, because: (i) I believe that implementation
8 and enforcement of a uniform statewide standard is the most effective way to control drug and
9 steroid use; and (ii) steroid use in teens is particularly high. According to a 2003 study by the
10 Centers for Disease Control and Prevention, 11.2% of high school boys surveyed in Alabama and
11 5.7% of high school girls surveyed in Tennessee reported using steroids at least once. Those
12 numbers are astounding. Fortunately, the numbers are not nearly as high in other parts of the
13 country, including Louisiana. In a recent Louisiana survey, only 3.5% of high school seniors
14 reported using steroids at least once. The bad news is that those results are up from approximately
15 2% reported about a decade ago.

16 8. Regardless of what rules are implemented statewide, a local school or school district
17 always has the ability to hold itself to a higher standard. That being said, it simply is cost-
18 prohibitive for most high schools to institute any kind of effective steroid testing program. The
19 cost for an initial test is reported to range anywhere from \$80 to \$100. This does not take into
20 account the cost of conducting secondary testing on positive results or the significant legal costs
21 that schools face when their testing programs are challenged in the courts.

22 9. A report published in August 2006 by the Association of High School Athletics
23 (“AHSAA”), the Athletic Administrators Association indicated that approximately 13% of the
24 nation’s high schools have a drug-testing policy in place. Of those schools, only 29% test for
25 steroids.

26 10. Many high schools do use an NCAA-approved test to monitor their athletes for use of
27 marijuana, cocaine, amphetamines, and methamphetamine. The reason is that many certified
28

1 laboratories offer standard screening packages for these drugs at a reasonable cost, sometimes as
2 low as \$20 per test. Although these affordable tests are better than no testing at all, the problem is
3 that these tests do not screen for steroids, alcohol, or tobacco, which are the drugs most
4 commonly used by high school students. Moreover, even if a school had the financial resources to
5 pay the significant cost of testing its athletes for steroid use, it's unlikely that the test would
6 screen for all types of steroids. It is inconceivable that a high school testing program could screen
7 for all steroids that might be used by student athletes, including human growth hormone and
8 Erythropoietin ("EPO").

9
10 11. Although a random drug-testing program will not be 100% effective in detecting actual
11 drug use, these programs can have an important deterrent effect. I read an article in a Louisiana
12 newspaper about the random drug-testing program in the Paradise Bayou Unified School District,
13 which at the time was the only district in Louisiana with such a program. According to the
14 article, Paradise Bayou High School officials reported that "very few" athletes have tested
15 positive for steroids since the program was implemented in 2004, and no athlete has tested
16 positive in the last five years. The local experience is consistent with the experiences reported in
17 other parts of the country. For instance, the Lauderdale County Florida School District, which
18 implemented its program in 2001, reported only a "handful" of positive test results in the first five
19 years of its program. Similarly, in an article appearing in the Interscholastic Athletic
20 Administration magazine, an unidentified North Carolina high school principal is quoted as
21 saying, "This school has not recorded a positive test in 10 years of testing. It is absolutely a
22 deterrent."

23 12. Since the Paradise Bayou School District implemented testing, other schools in
24 Louisiana have implemented random drug testing. The most recent are the three high schools in
25 the Gator Cove Unified School District which introduced a random drug testing program in
26 January 2008 for all students participating in athletic and non-athletic programs sponsored by the
27 Louisiana Interscholastic Association (the "LIA"). Significantly, the program is being funded by
28 a three-year \$718,000 grant awarded by the U.S. Department of Education.

1 13. The Gator Cove Unified School District program tests for alcohol, amphetamines,
2 marijuana, cocaine, Ecstasy, PCP, and most steroids, but it does not test for EPO. The first
3 positive test results in an eight-week loss of eligibility for LIA events. The second positive test
4 results in loss of eligibility for the remainder of the school year. And, the third positive test results
5 in a permanent ban from LIA activities. Positive test results have no academic consequences, and
6 they are not turned over to law enforcement.

7 14. Although the anecdotal evidence suggests that random drug-testing programs have a
8 great deterrent effect, there are several other possible explanations. For instance, it is possible
9 that: (i) students who used steroids were not randomly selected for testing; (ii) students used a
10 type of steroid that is not detected by the test used by the school; (iii) the steroids had passed
11 through the student's system by the time of the test; and/or (iv) students who used steroids found
12 ways to mask their steroid use. For these reasons, I do not believe that a random drug-testing
13 program is the most effective way of addressing the serious problem of steroid abuse by high
14 school athletes.

15 15. Education is the key to detecting and eliminating the use of steroids by high school
16 athletes. First, student athletes must be educated about the dangers and consequences of using
17 steroids and other performance-enhancing substances. Second, parents must be educated about
18 (i) how to monitor their children for signs of steroid and other drug abuse; (ii) steps that can be
19 taken to prevent their children from using steroids; and (iii) what to do if they suspect that their
20 children are using steroids or other drugs. Finally, coaches and administrators must be educated
21 in (i) how to monitor student athletes for signs of steroid and other drug abuse; (ii) what to do
22 when they suspect a student is using steroids or other drugs; (iii) how to communicate appropriate
23 messages about steroids and other drugs to their student athletes; and (iv) how to avoid sending
24 inconsistent messages regarding steroids and other drugs. To be effective, the education for
25 students, parents, coaches, and administrators cannot be a one-time event. The message has to be
26 reinforced repeatedly, especially to students.

27 16. I am familiar with the LIA's Bylaws. Paragraph 14.13 of the Bylaws contains the LIA's
28

1 Position Statement on supplements, drugs, and performance-enhancing substances. The LIA's
2 approach is education-based. The LIA has taken a strong stance against the use of steroids and
3 other drugs and requires its member schools to, at least annually, communicate LIA's Position
4 Statement regarding the use of steroids and other drugs to its student athletes.

5 17. It appears that Gulfside and Coach Swift are in compliance with the LIA's requirement
6 regarding the Position Statement. In this regard, the school has its student athletes sign a copy of
7 the Position Statement, which the school keeps on file. Gulfside's files contain a copy of a
8 Position Statement with Jordan's name on it, but it is not signed. Coach Swift confirmed that
9 Jordan received a copy of the Position Statement, but could not explain why the copy retained in
10 the files did not have Jordan's signature.

11 18. I believe that LIA's approach to steroid and other drug abuse is good, but like any
12 policy, it could be stronger. For instance, I would recommend that the LIA actually set forth a
13 statewide standard regarding the use of steroids and other substances. Rather than being "strongly
14 opposed" to the use of substances on the World Anti-Doping Society's Prohibited List, the LIA
15 could ban the use of the substances on the Prohibited List and mandate certain penalties for
16 violation of the policy. In addition, the LIA's policy might be more effective if the LIA required
17 that both students and parents actually receive and sign a copy of the LIA's Position Statement.

18 19. Although the LIA has not adopted statewide penalties for the use of steroids and other
19 drugs by student athletes, Gulfside High School has adopted its Zero Tolerance Policy.
20 In addition, Gulfside requires all of its freshmen students to take a Health course, which includes
21 a weeklong segment on the use of drugs. I believe this is a reasonable response to the serious
22 problem of steroid and other drug abuse by high school student athletes.

23 20. As set forth above, parents, coaches, and administrators need to be educated in how to
24 tell that a student is using steroids or other drugs, because it can be very difficult to detect the
25 warning signs of certain steroid use, like EPOs, because the symptoms mimic other ailments or
26 can be explained away by a clever teen. For instance, a teen who abuses EPO may suddenly
27 develop ache that a parent may assume is caused by teenage hormones. Or, an EPO abuser may
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

seem sick or lethargic, but what teen doesn't seem sick and lethargic 5 out of 7 days. Steroid use may also result in mood swings and an increased sense of isolation. Again, welcome to life with a 16 year old. But, the proper education can heighten a parent or educator's awareness and may cause them to question the student if a warning sign arises.

21. In this case, however, I do not believe that Coach Swift or Gulfside High School had any reason to suspect that Jordan Gautreaux was using EPO.

Aubrey Brady

SUBSCRIBED AND SWORN to before me, a Notary Public, on January 10, 2012, by Aubrey Brady.

NOTARY: /s/ Ann Carver

My Commission Expires: October 13, 2016